

PROGRESS REPORT NO. 21

**MICHIGAN COURT OF APPEALS
DELAY REDUCTION PLAN**

September 21, 2007

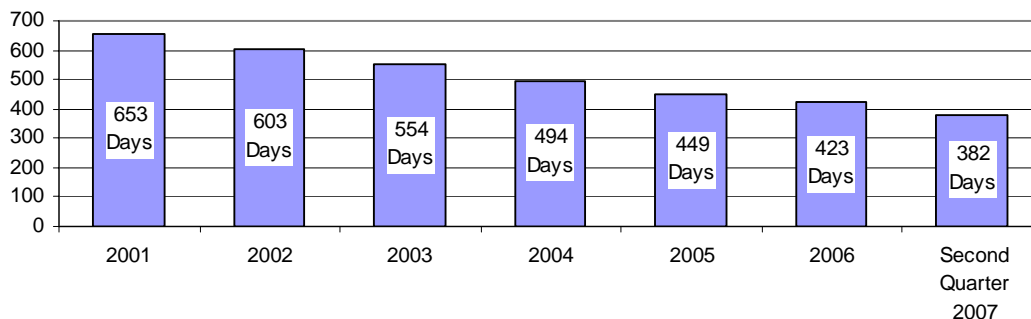
William C. Whitbeck
Chief Judge
Michigan Court of Appeals

I. Executive Summary

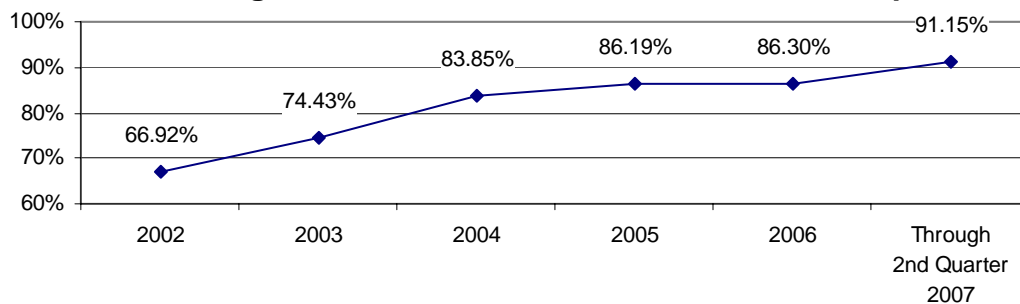
As reported previously, in March of 2002 the Michigan Court of Appeals adopted a long-range goal of disposing of 95% of all appeals filed with it within 18 months of filing, commencing with those cases filed on and after October 1, 2003. Since the Preliminary Report that signaled the inception of the Court's delay reduction plan, the court has made important progress toward achieving that goal and has issued twenty Progress Reports documenting that progress. This Progress Report No. 21 sets out data covering the second quarter of 2007.

During the fourth quarter of 2006 and the first quarter of 2007, the Court's delay reduction effort stalled. Indeed, the Court's average time to decide opinion cases increased in the fourth quarter of 2006 and decreased only slightly in the first quarter of 2007. However, in the second quarter of 2007, the Court's delay reduction progress accelerated considerably. Overall, the Court reduced the time it took to decide an opinion case to 382 days. Consequently, the Court was able to decide 91.15% of all its cases within 18 months of filing. As the chart and graph below show, this represents remarkable progress and puts the Court within striking distance of meeting its long-range goal

Overall Time In Processing



Percentage Of Cases 18 Months Old Or Less At Disposition



Unfortunately, the considerable progress that the Court achieved in the second quarter will not continue. The Court's FY 2006 and 2007 budgets have compromised its delay reduction effort and the FY 2008 budget remains unresolved. Approximately 90% of the Court's costs relate to personnel. Due to required reductions in personnel, the Court cannot maintain the staffing levels necessary to continue to reduce the time it takes to process cases in a timely fashion.

There are those who suggest that this situation spells the end of the Court's delay reduction effort and that this effort has reached the point of diminishing returns. One can legitimately ask, diminishing to whom?

- Diminishing to the business owner who formerly waited years for a decision and therefore could not rationally plan for the future?
- Diminishing to the injured plaintiff who waited for the same decision?
- Diminishing to the child who languished in foster care, unable to be adopted until the question of her parents' parental rights was finally adjudicated?
- Diminishing to the average taxpayer who has seen only very modest increases in general fund/general purposes funds appropriated to the Court but who lives in a society that places an increasingly high premium on timely decision-making?

More broadly, suggestions that the Court of Appeals cannot reasonably anticipate budget increases in the foreseeable future consign the Court not to a high priority in the budget-setting process but rather to a low one. This is entirely incorrect. The timely and efficient functioning of the judicial branch is vital to our democracy. It is one of the fundamental functions of government. It is an essential element of public safety and public order. The budget setting process is, at bottom, an exercise in setting priorities as to these vitally important matters. To suggest that the Legislature should accord anything but a high priority to the judicial function, including the Court of Appeals, in the budget-setting process is contrary to any rational consideration of sound public policy.

Over recent years the Court of Appeals has functioned at a high level of operational efficiency. It has increased its productivity. It has increased its efficiency. It has cut delay by a third, an accomplishment that no other court in the country can claim. And it has cut costs by almost \$5 million to balance its budgets. In the simplest terms, by any measure the Court is a success. The Court's task—and it is a formidable one—is to assure that the budget-setting process does not turn that success into a failure.

II. OVERVIEW

A. Statement of the Problem

In 2001, the Court disposed of approximately 7,600 cases, 3,100 by opinion and the rest by order. On average, the Court disposed of these opinion cases in 653 days from the date of filing. The Judges of the Court unanimously determined that this time frame was not within acceptable limits and adopted a comprehensive delay reduction plan on March 8, 2002. The Court has subsequently issued twenty progress reports detailing its progress on this plan. This twenty-first progress report covers the second quarter of 2007. All of the progress reports are available on the Court's website at <http://courtofappeals.mjud.net/resources/drwg.htm>.

B. Goals and Objectives

1. *Long-Range Goal*

The Court's delay reduction plan involves an overall long-range goal and two shorter-term objectives designed to meet that goal. The long-range goal is to dispose of 95% of all the Court's cases within 18 months of filing, commencing with those cases filed on or after October 1, 2003.

2. *First Short-Term Objective*

To achieve its long-range goal, the Court determined that it must first reduce the average time it takes to process an opinion case through the Court from its 2001 level of 653 days to approximately 497 days. To achieve this reduction, the Court has taken a three-pronged approach: *First*, the Court set very aggressive targets for disposing of cases once they reach the Judicial Chambers. *Second*, the Court, through a number of mechanisms, set equally aggressive targets for moving cases more quickly out of the Warehouse, primarily by moving these cases directly into the Judicial Chambers at a considerably accelerated pace. *Third*, the Court proposed a number of changes in the court rules to shorten the time in Intake. The Court designed these actions to take effect over the summer and fall of 2002 through the commencement of FY 2004 on October 1, 2003. In the second quarter of 2007 the average time to process an opinion case through the Court was 382 days. The Court has therefore achieved its first short-term objective.

3. *Second Short-Term Objective*

Reducing the overall average processing time for opinion cases from its 2001 level of 653 days to approximately 424 days will not, however, permit the Court to meet its long-range goal of disposing of 95% of all cases within 18 months of filing. To achieve this long-range goal, the Court must reduce its overall average processing time for opinion cases to approximately 300 days. The Court has not yet achieved its second short-term objective. To achieve that objective, the Court must eliminate or substantially reduce the time that opinion cases wait in Warehouse or take other appropriate action.

III. RESULTS IN THE SECOND QUARTER OF 2007 AS COMPARED TO FIRST OBJECTIVE

A. Processing Times of Opinion Cases

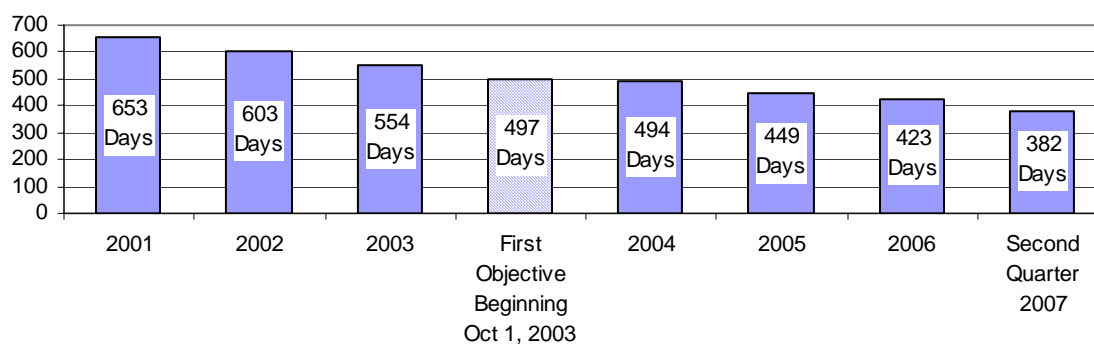
1. Overall

As Chart 1 shows, in 2001 the Court took 653 days on average to dispose of an opinion case. In the second quarter of 2007 this time was 382 days. Graph 1 shows these reductions on a comparative basis and relates them to the Court's first objective. As Graph 1 shows, the Court has exceeded its first objective.

Chart 1

	2001	2002	2003	2004	2005	2006	2nd Quarter 2007
Intake	260	240	235	228	203	182	185
Warehouse	271	261	225	167	146	159	130
Research	61	62	64	68	70	52	42
Judicial Chambers	61	40	30	31	30	30	25
Totals	653	603	554	494	449	423	382

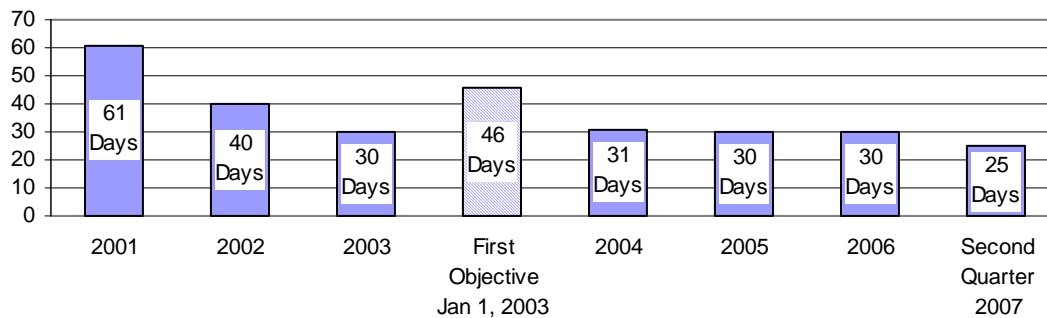
Graph 1
Overall Time In Processing Compared To First Objective



2. *Judicial Chambers*

Graph 2 shows that in 2001 for those cases disposed of by opinion the average time spent in the Judicial Chambers was 61 days. In the second quarter of 2007 this time was 25 days. As Graph 2 shows, the Court has more than met its first objective.

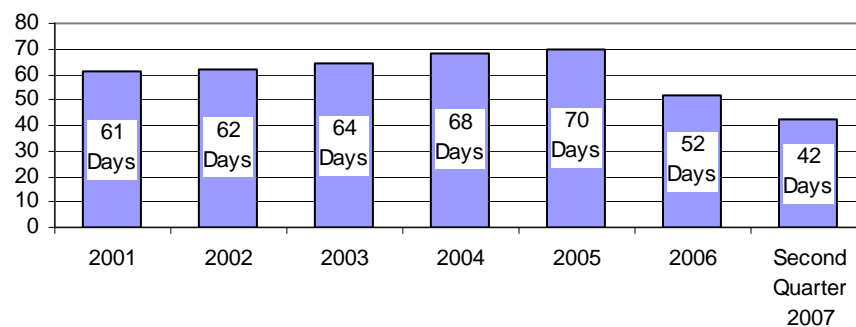
Graph 2
Processing Time In Judicial Chambers Compared To First Objective



3. *Research*

As Graph 3 shows, in 2001 for those cases disposed of by opinion the average time spent in the Research Division was 61 days. In the second quarter of 2007 it was 42 days. Graph 3 shows these times on a comparative basis.

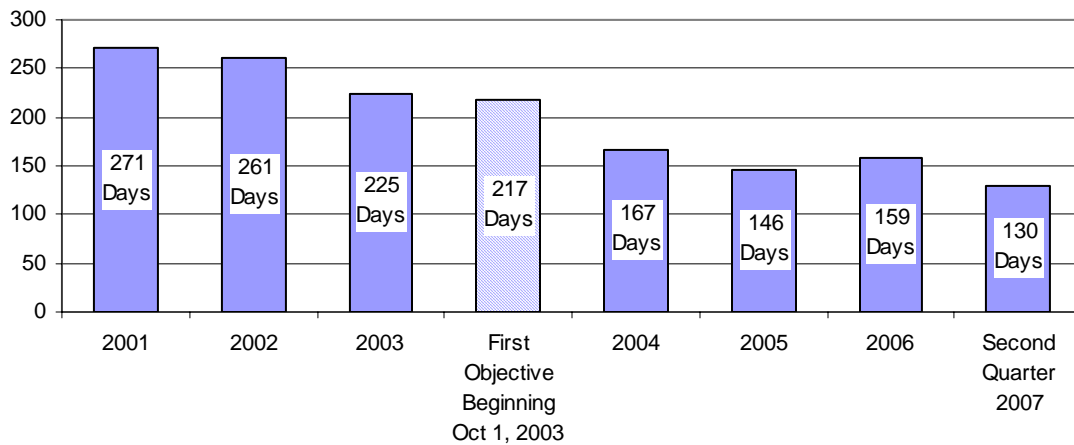
Graph 3
Processing Time In Research



4. Warehouse

Graph 4 shows that in 2001 for those cases disposed of by opinion the average time spent in the Warehouse was 271 days. In the second quarter of 2007 this time was 130 days. Graph 4 shows these reductions on a comparative basis and relates them to the Court's first objective. As Graph 4 shows, the Court exceeded its first objective.

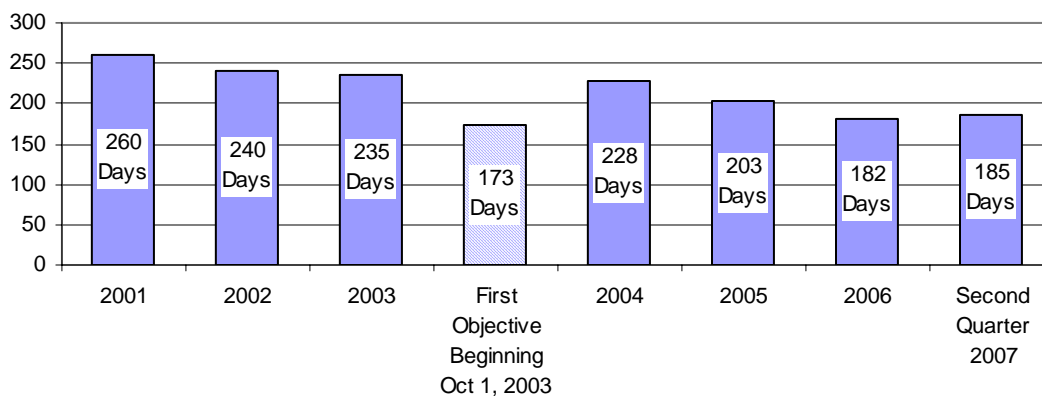
Graph 4
Processing Time In The Warehouse Compared To First Objective



5. Intake

Graph 5 shows that in 2001 for those cases disposed of by opinion the average time spent in Intake was 260 days. In the second quarter of 2007 this time was 185 days. Graph 5 shows these reductions on a comparative basis and relates them to the Court's first objective. As Graph 5 shows, the Court has yet to meet its first objective in this stage.

Graph 5
Processing Time In Intake Compared To First Objective



IV. RESULTS IN THE SECOND QUARTER OF 2007 AS COMPARED TO PREVIOUS QUARTERS

A. Processing Times of Opinion Cases

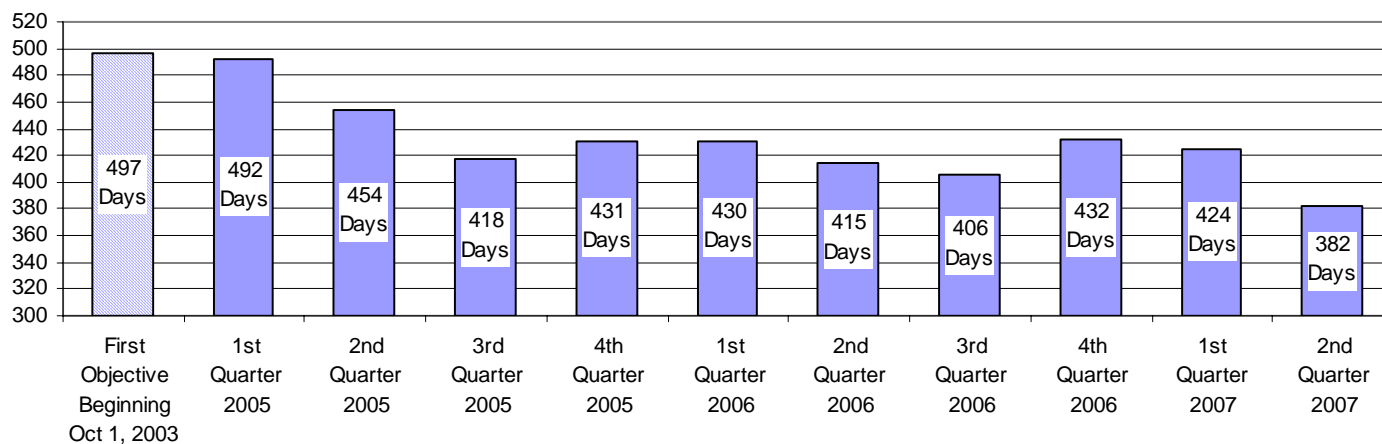
1. Overall

Chart 2 shows that in the second quarter of 2005 the Court took 454 days to dispose of an opinion case. In the second quarter of 2007 this time was 382 days. Graph 6 shows these reductions on a comparative basis and relates them to the Court's first objective.

Chart 2
Processing Time For Opinion Cases

	1 st Qtrr 2005	2 nd Qtrr 2005	3 rd Qtrr 2005	4 th Qtrr 2005	1 st Qtrr 2006	2 nd Qtrr 2006	3 rd Qtrr 2006	4 th Qtrr 2006	1 st Qtrr 2007	2 nd Qtrr 2007
Intake	225	211	182	192	172	180	175	198	188	185
Warehouse	166	148	134	137	167	159	152	155	157	130
Research	68	68	70	74	65	47	46	47	41	42
Judicial Chambers	33	27	32	28	26	29	33	32	38	25
Totals	492	454	418	431	430	415	406	432	424	382

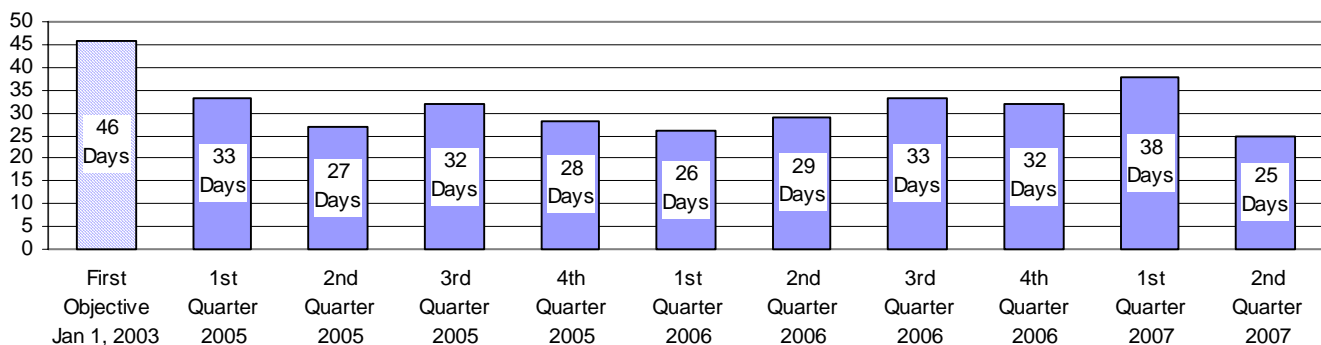
Graph 6
Overall Time In Processing Compared To First Objective



2. Judicial Chambers

Graph 7 shows that in the second quarter of 2005, for those cases disposed of by opinion, the average time spent in the Judicial Chambers was 27 days. In the second quarter of 2007 this time was 25 days. Graph 7 shows those reductions on a comparative basis and relates them to the Court's first objective. As the graph shows, the Court continued to meet its first objective for the Judicial Chambers.

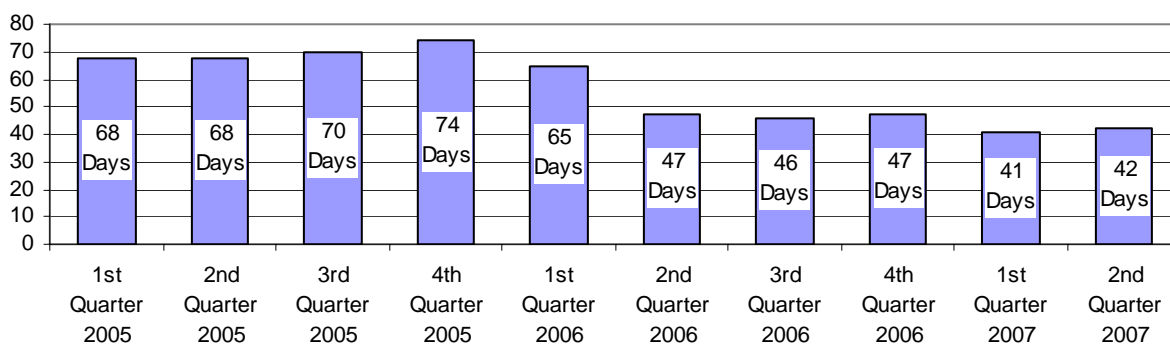
Graph 7
Processing Time In Judicial Chambers Compared To First Objective



3. Research

Graph 8 shows that for the second quarter of 2005, for those cases disposed of by opinion, the average time spent in the Research Division was 68 days. In the second quarter of 2007 this time was 42 days.

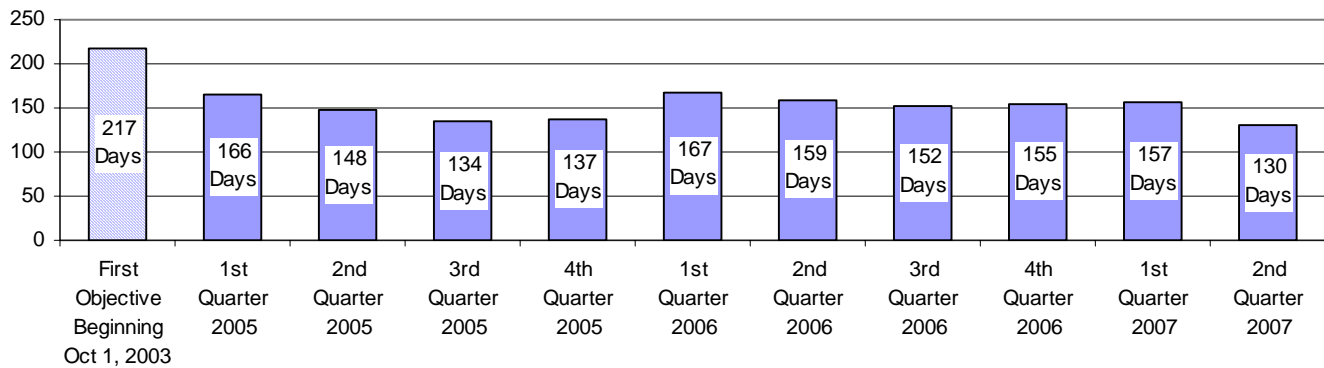
Graph 8
Processing Time In Research



4. Warehouse

Graph 9 shows that in the second quarter of 2005, for those cases disposed of by opinion, the average time spent in the Warehouse was 148 days. In the second quarter of 2007 this time was 130 days. Graph 9 shows these reductions on a comparative basis and relates them to the Court's first objective.

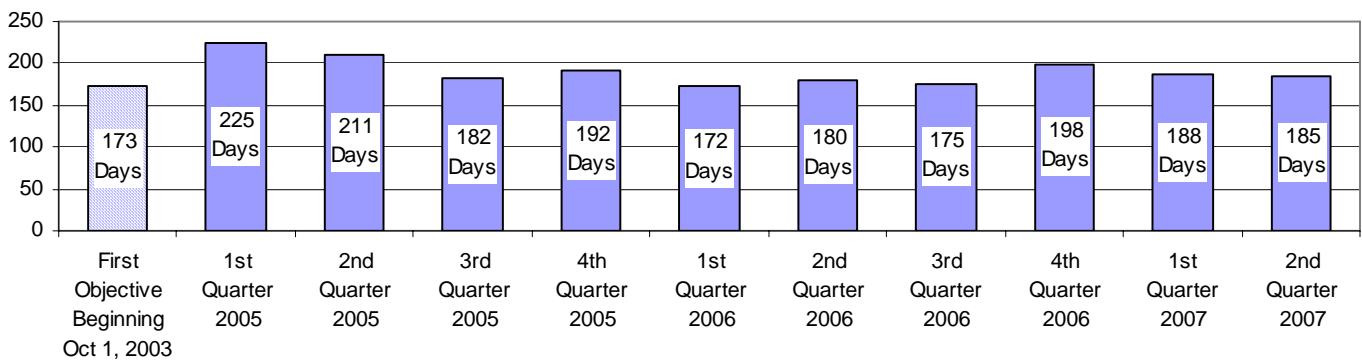
Graph 9
Processing Time In The Warehouse Compared To First Objective



5. Intake

Graph 10 shows that in the second quarter of 2005, for those cases disposed of by opinion, the average time spent in Intake was 211 days. In the second quarter of 2007 this time was 185 days. Graph 10 shows those reductions on a comparative basis and relates them to the Court's first objective. As the graph shows, in the second quarter of 2007 the Court did not meet its first objective for Intake.

Graph 10
Processing Time In Intake Compared To First Objective



B. Case Differentiation

Charts 3 through 8 show the overall situation for cases that the Court disposed of by opinion for the years of 2001, 2002, 2003, 2004, 2005, and 2006, respectively, arrayed according to major case types. Chart 9 arrays the same data for the second quarter of 2007.

Chart 3
2001

	Overall Average	Regular/ Complex	Summary Panel	Non-Expedited	Expedited	Custody/TPR
Intake	260	271	229	280	192	187
Warehouse	271	290	214	331	60	56
Research	61	61	62	63	56	52
Judicial Chambers	61	72	27	66	43	30
Total	653	694	532	740	351	325

Chart 4
2002

	Overall Average	Regular/ Complex	Summary Panel	Non-Expedited	Expedited	Custody/TPR
Intake	240	254	205	255	178	178
Warehouse	261	290	189	312	58	56
Research	62	59	69	61	66	67
Judicial Chambers	40	49	19	44	26	20
Total	603	652	482	672	328	321

Chart 5
2003

	Overall Average	Regular/ Complex	Summary Panel	Non-Expedited	Expedited	Custody/TPR
Intake	235	244	212	251	166	167
Warehouse	225	253	154	271	28	27
Research	64	63	64	63	66	67
Judicial Chambers	30	36	16	33	18	14
Total	554	596	446	618	278	275

Chart 6
2004

	Overall Average	Regular/ Complex	Summary Panel	Non- Expedited	Expedited	Custody/TPR
Intake	228	241	201	249	134	131
Warehouse	167	175	150	198	29	28
Research	68	73	59	71	55	55
Judicial Chambers	31	34	25	33	22	21
Total	494	523	435	551	240	235

Chart 7
2005

	Overall Average	Regular/ Complex	Summary Panel	Non- Expedited	Expedited	Custody/TPR
Intake	203	221	173	219	133	132
Warehouse	146	140	157	175	20	15
Research	70	79	55	73	56	56
Judicial Chambers	30	31	29	31	26	24
Total	449	471	414	498	235	227

Chart 8
2006

	Overall Average	Regular/ Complex	Summary Panel	Non- Expedited	Expedited	Custody/TPR
Intake	182	194	158	195	122	122
Warehouse	159	167	143	183	48	49
Research	52	64	30	57	30	28
Judicial Chambers	30	32	26	32	21	20
Total	423	457	357	467	221	219

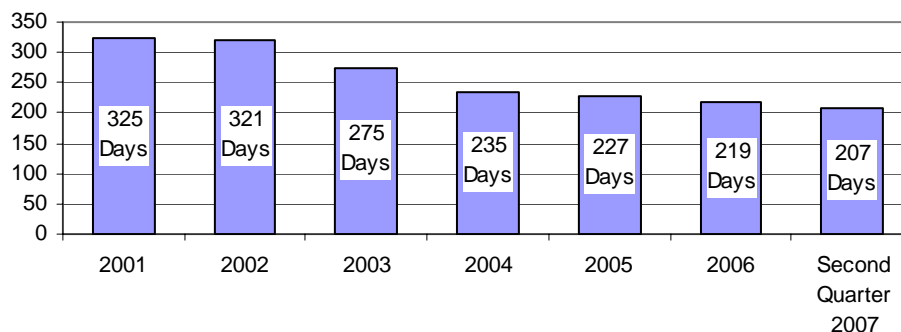
Chart 9
Second Quarter 2007

	Overall Average	Regular/ Complex	Summary Panel	Non-Expedited	Expedited	Custody/TPR
Intake	185	200	162	204	120	120
Warehouse	130	145	108	157	37	37
Research	42	56	20	45	32	31
Judicial Chambers	25	23	28	26	19	19
Total	382	424	318	432	208	207

C. Dependency Appeals

The Court has also focused special attention on dependency appeals. These appeals arise from trial court orders terminating parental rights (TPR) and deciding custody issues involving minor children in domestic relations cases. In 2001 it took 325 days, on average, to dispose of such cases by opinion. As Chart 9, above, shows, the Court reduced this time to 207 days in the second quarter of 2007. Of that time, 120 days were spent in the Intake stage. The combined time for all other stages was 87 days, including only 19 days in the Judicial Chambers. Graph 11 shows the situation with respect to dependency appeals beginning in 2001.

Graph 11
Dependency Appeals



D. Case Age

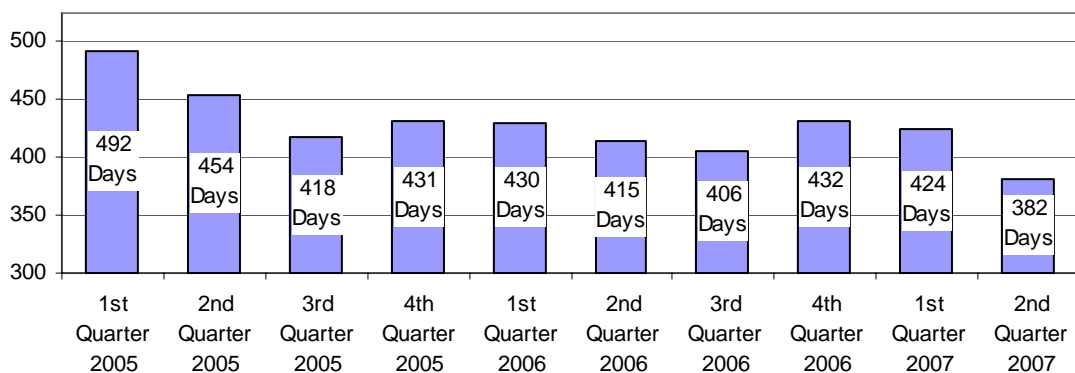
As noted above, the Court decides a mix of cases, some by opinion and some by order. The Court's overall goal is to decide 95% of its cases within 18 months of filing (see Chart 10, below). While the Court is gratified at the increase of the percentage of cases that are 18 months old or less at disposition, the Court still must make considerable progress if it is to meet its long-term goal of deciding 95% of all cases within 18 months of filing.

Chart 10
Percentage of Cases 18 Months Old Or Less At Disposition

Case Type	2001	2002	2003	2004	2005	2006	Second Quarter 2007
Opinion	25.03%	33.31%	46.59%	67.01%	68.80%	68.26%	79.76%
Order	x ¹	97.36%	97.70%	98.30%	99.14%	99.37%	99.67%
All	y ¹	66.92%	74.43%	83.85%	86.19%	86.30%	91.15%

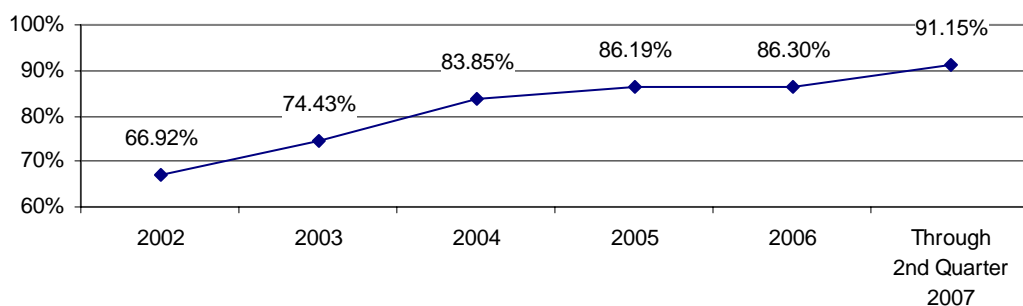
In terms of the average age of cases that it decides, Graph 12 gives a quarter-to-quarter comparison.

Graph 12
Overall Time In Processing
Quarter-to-Quarter Comparison



The level of dispositions within 18 months is significant in comparison to the disposition levels in prior years, as Graph 13 shows:

Graph 13
Percentage Of Cases 18 Months Old Or Less At Disposition



¹ These data are not readily available from the Court's database.

V. STAFFING LEVELS IN THE RESEARCH DIVISION

The Court recognized in March of 2002 that, given existing budget constraints, it could not realistically expect to add new attorneys to its Research Division in either FY 2002 or FY 2003. Indeed, the Court actually experienced significant budget *reductions* during both of these fiscal years. Nevertheless, to meet its overall goal of disposing of 95% of all appeals within 18 months of filing, the Court recognized that it had to further accelerate the disposition of cases decided by opinion. In the presentation of its budget request for FY 2004, the Court emphasized that, to meet this goal, it needed to add attorneys to its Research Division to drastically reduce or eliminate the Warehouse.

Fortunately, there was almost universal recognition of this urgent need. As part of an overall package of fee increase bills originated by the Supreme Court, supported by the Executive Branch, enacted by the Legislature, and signed by the Governor, the Court received approximately \$525,000 more in revenues in FY 2004 from entry and motion fees than it received in FY 2003. These funds allowed the Court to *increase* its Research Division staff in FY 2004 and to continue the higher staffing levels in FY 2005.

However, the Judiciary budgets for FY 2006 and FY 2007 were not good ones for the Court of Appeals. The net effect is that the Court, through holding vacancies open and through attrition, is *reducing* its staffing levels. Chart 11 shows the decline of full time employees in the Court's Senior Research and Prehearing Offices over the last several years.

Chart 11
Full Time Employees in Senior Research and Prehearing

Full Time Employees		
2nd Q of	Sr. Research	Prehearing
2000	24.49	29.33
2001	23.07	26.81
2002	15.69	26.02
2003	15.33	26.71
2004	13.85	31.17
2005	14.58	30.94
2006	15.18	30.53
2007	15.08	22.21

VI. CONCLUSIONS

On March 8, 2002, the Judges of the Court of Appeals adopted the ambitious goal of disposing of 95% of all its appeals within 18 months of filing. The Court's delay reduction plan, with the exception of changes to the court rules that will reduce the time a case spends in Intake, commenced on an overall basis in July of 2002. In the second quarter of 2007:

- The Court reduced the average overall time it takes to dispose of an opinion case from the 2001 level of 653 days to 382 days. The Court's first objective was to reduce the time it takes to dispose of an opinion case to 497 days commencing fully on October 1, 2003. The Court therefore has exceeded its first objective.
- The Court reduced the average time a case spends in the Judicial Chambers from the 2001 level of 61 days to 25 days. The Court's first objective was to reduce the time it takes to dispose of an opinion case to 46 days in the Judicial Chambers. The Court therefore has exceeded its first objective.
- The Court reduced the average time a case waits in the Warehouse from the 2001 level of 271 days to 130 days. The Court's objective was to reduce the wait in the Warehouse to 217 days by October 1, 2003. The Court therefore has exceeded its first objective.
- The average time a case spends in Intake has been reduced from the 2001 level of 260 days to 185 days. The Court's objective was to reduce the time in Intake to 173 days commencing with the cases filed on or after October 1, 2003. The Court therefore has not met its first objective.
- The Court has reduced the average overall time it takes to process dependency appeals from the 2001 level of 325 days to 207 days.

Chart 12 summarizes the Court's progress toward meeting its first objective.

Chart 12
October 2003 Objective

	2001	2002	2003	2004	2005	2006	Second Quarter 2007	Improvement To Date	First Objective	Improvement Needed To Meet First Objective
Intake	260	240	235	228	203	182	185	75	173	12
Warehouse	271	261	225	167	146	159	130	141	217	(87)
Research	61	62	64	68	70	52	42	19	61	(19)
Judicial Chambers	61	40	30	31	30	30	25	36	46	(21)
Total	653	603	554	494	449	423	382	271	497	(115)

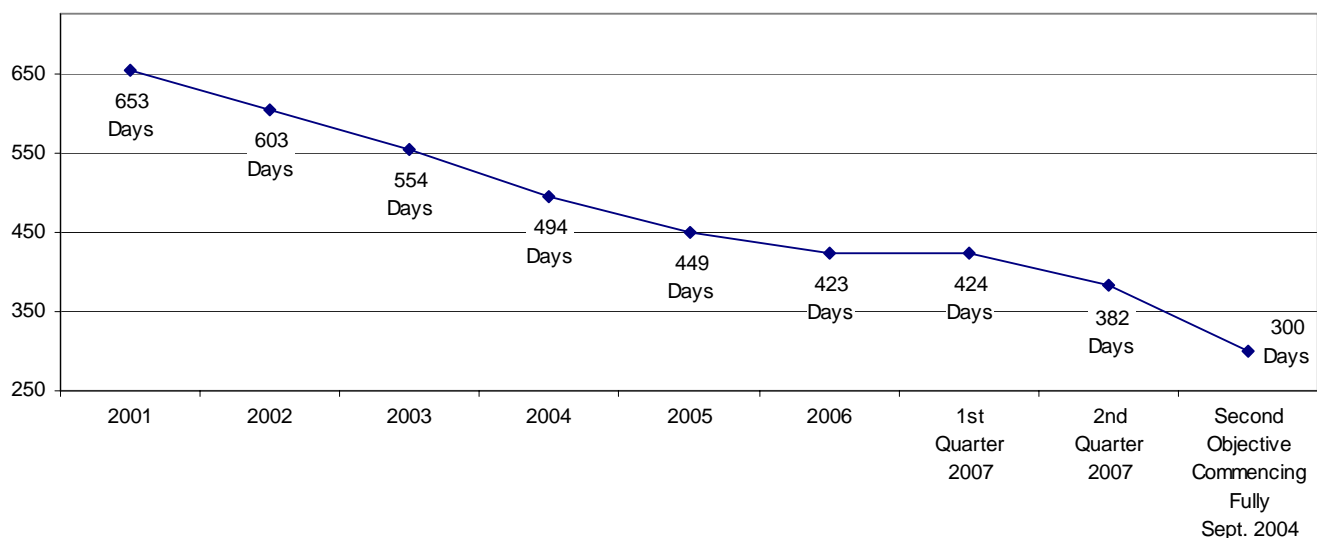
Chart 13 summarizes the additional progress that will be needed to meet the Court's second objective of reducing the average time it takes to dispose of an opinion case from the 2001 level of 653 days to approximately 300 days commencing fully in September of 2004.

Chart 13
September 2004 Objective

	2001	2002	2003	2004	2005	2006	Second Quarter 2007	Improvement To Date	Second Objective	Improvement Needed To Meet Second Objective
Intake	260	240	235	228	203	182	185	75	173	12
Warehouse	271	261	225	167	146	159	130	141	0	130
Research	61	62	64	68	70	52	42	19	61	(19)
Judicial Chambers	61	40	30	31	30	30	25	36	46	(21)
Total	653	603	554	494	449	423	382	271	280	102

Graph 14 illustrates the situation from a different perspective, showing the Court's starting point in 2001, the progress the Court made through 2002, 2003, 2004, 2005, 2006, and the second quarter of 2007, and the second objective that was intended to commence fully in September of 2004.

Graph 14
Progress Toward Objectives



The Court remains committed to accomplishing its core mission. That mission is a dual one: to decide the cases that come before us with due deliberation and due speed. We have no other mission. We do not provide services (other than information to the litigants); we do not make grants; we do not carry out programs; we do not engage in administrative functions relating to other elements of the judiciary; we do not undertake educational or training programs (other than internally); and our work product is strictly limited to the opinions and orders that we produce. With respect to those opinions and orders, our first obligation is to get them right and our second obligation is to get them out. Despite the budget situation, we will continue to do our very best to carry out these dual missions over the coming months.